

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Francis Lee Summers, III, individually and :
On behalf of all others similarly situated, : No. 07 Civ 11615 (UA)
Plaintiffs, :
: v.
MERRILL LYNCH & CO., INC.; STAN :
O'NEAL; LOU DIMARIA; INVESTMENT :
COMMITTEE OF THE MERRILL LYNCH :
SAVINGS AND INVESTMENT PLAN; :
ADMINISTRATIVE COMMITTEE OF THE :
MERRILL LYNCH SAVINGS AND :
INVESTMENT PLAN; and JOHN DOES 1 - 30, :
Defendants.
:
-----x

[additional captions follow]

PLAINTIFF FRANCIS LEE SUMMERS III'S
SUPPLEMENTAL MEMORANDUM OF LAW ON APPOINTMENT
OF INTERIM LEAD COUNSEL FOR THE CLASS

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Counsel for Plaintiff Francis Lee Summers, III

-----X

ELIZABETH ESTEY, individually and on
behalf of all others similarly situated,

Plaintiffs,

No. 07 Civ. 10268 (LBS)

v.

MERRILL LYNCH & CO., INC.,
E. STANLEY O'NEAL, CAROL T.
CHRIST, ARMANDO M. CODINA,
VIRGIS W. COLBERT, JILL K.
CONWAY, ALBERTO CRIBIORE,
JOHN D. FINNEGAN, JUDITH
MAYHEW JONAS, DAVID K.
NEWBIGGERING, AULANA L. PETERS,
JOSEPH W. PRUEHER, ANN N. REESE,
CHARLES O. ROSSOTTI, LOUIS
DIMARIA, PETER STINGI and JOHN
AND JANE DOES 1-20,

Defendants.

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MARY GIDARO, individually and on
behalf of all others similarly situated,

Plaintiffs,

No. 07 Civ. 10273 (LBS)

v.

MERRILL LYNCH & CO., INC.,
E. STANLEY O'NEAL, CAROL T.
CHRIST, ARMANDO M. CODINA,
VIRGIS W. COLBERT, JILL K.
CONWAY, ALBERTO CRIBIORE,
JOHN D. FINNEGAN, JUDITH
MAYHEW JONAS, DAVID K.
NEWBIGGERING, AULANA L. PETERS,
JOSEPH W. PRUEHER, ANN N. REESE,
CHARLES O. ROSSOTTI, LOUIS
DIMARIA, PETER STINGI and JOHN
AND JANE DOES 1-20,

Defendants.

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TARA MOORE, individually and on behalf of all others similarly situated, :
Plaintiffs, : No. 07 Civ. 10398 (DC)
v.
MERRILL LYNCH & CO., INC., :
E. STANLEY O'NEAL, CAROL T CHRIST, ARMANDO M. CODINA, :
VIRGIS W. COLBERT, JILL K. CONWAY, ALBERTO CRIBIORE, :
JOHN D. FINNEGAN, JUDITH MAYHEW JONAS, DAVID K. NEWBIGGING, AULANA L. PETERS, :
JOSEPH W. PRUEHER, ANN N. REESE, CHARLES O. ROSSOTTI, LOUIS DIMARIA, PETER STINGI and JOHN AND JANE DOES 1-20, :
Defendants.
-----x
GREGORY YASHGUR, individually and on behalf of all others similarly situated, :
Plaintiffs, : No. 07 Civ. 10569 (JSR)
v.
MERRILL LYNCH & CO., INC., :
E. STANLEY O'NEAL, CAROL T. CHRIST, ARMANDO M. CODINA, :
VIRGIS W. COLBERT, JILL K. CONWAY, ALBERTO CRIBIORE, :
JOHN D. FINNEGAN, JUDITH MAYHEW JONAS, DAVID K. NEWBIGGING, AULANA L. PETERS, :
JOSEPH W. PRUEHER, ANN N. REESE, CHARLES O. ROSSOTTI, LOUIS DIMARIA, PETER STINGI and JOHN AND JANE DOES 1-20, :
Defendants.

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CHRISTINE DONLON, individually and
on behalf of all others similarly situated, :
Plaintiffs, : **No. 07 Civ. 10661(CM)**
v.
MERRILL LYNCH & CO., INC., :
E. STANLEY O'NEAL, CAROL T. :
CHRIST, ARMANDO M. CODINA, :
VIRGIS W. COLBERT, JILL K. :
CONWAY, ALBERTO CRIBIORE, :
JOHN D. FINNEGAN, JUDITH :
MAYHEW JONAS, DAVID K. :
NEWBIGGING, AULANA L. PETERS, :
JOSEPH W. PRUEHER, ANN N. REESE, :
CHARLES O. ROSSOTTI, LOUIS :
DIMARIA, PETER STINGI and JOHN :
AND JANE DOES 1-20, :
Defendants.
-----x
CARL ESPOSITO, individually and
On behalf of all others similarly situated, :
Plaintiffs, : **No. 07 Civ. 10687 (JGK)**
v.
MERRILL LYNCH & CO., INC., :
E. STANLEY O'NEAL, CAROL T. :
CHRIST, ARMANDO M. CODINA, :
VIRGIS W. COLBERT, JILL K. :
CONWAY, ALBERTO CRIBIORE, :
JOHN D. FINNEGAN, JUDITH :
MAYHEW JONAS, DAVID K. :
NEWBIGGING, AULANA L. PETERS, :
JOSEPH W. PRUEHER, ANN N. REESE, :
CHARLES O. ROSSOTTI, LOUIS :
DIMARIA, PETER STINGI and JOHN :
AND JANE DOES 1-20, :
Defendants.

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SEAN SHAUGHNESSEY, individually and
on behalf of all others similarly situated, :

Plaintiffs, : No. 07 Civ. 10710 (GEL)
v. :

MERRILL LYNCH & CO., INC.,
E. STANLEY O'NEAL, CAROL T.
CHRIST, ARMANDO M. CODINA,
VIRGIS W. COLBERT, JILL K.
CONWAY, ALBERTO CRIBIORE,
JOHN D. FINNEGAN, JUDITH
MAYHEW JONAS, DAVID K.
NEWBIGGERING, AULANA L. PETERS,
JOSEPH W. PRUEHER, ANN N. REESE,
CHARLES O. ROSSOTTI, LOUIS
DIMARIA, PETER STINGI and JOHN
AND JANE DOES 1-20,

Defendants. :

-----x
BARBARA BOLAND, individually and
On behalf of all others similarly situated, :

Plaintiffs, : No. 07 Civ. 11054 (MGC)

v. :

MERRILL LYNCH & CO., INC.,
E. STANLEY O'NEAL, CAROL T.
CHRIST, ARMANDO M. CODINA,
VIRGIS W. COLBERT, JILL K.
CONWAY, ALBERTO CRIBIORE,
JOHN D. FINNEGAN, JUDITH
MAYHEW JONAS, DAVID K.
NEWBIGGERING, AULANA L. PETERS,
JOSEPH W. PRUEHER, ANN N. REESE,
CHARLES O. ROSSOTTI, LOUIS
DIMARIA, PETER STINGI and JOHN
AND JANE DOES 1-20,

Defendants. :

Plaintiff, Francis Lee Summers, III, by his counsel, hereby withdraws his motion (Docket No. 3) to appoint the undersigned as interim co-lead counsel. Plaintiff Summers has determined to strongly support the applications of Shalov Stone Bonner & Rocco LLP, and Harwood Feffer, LLP as co-lead counsel for the ERISA actions captioned above.

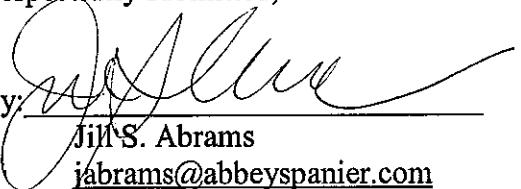
Plaintiff Summers believes that the interests of the putative class are best represented in this instance by all counsel working cooperatively under the leadership of these two firms.

Accordingly, Plaintiff respectfully withdraws his motion (Docket No. 3) to appoint the undersigned as interim co-lead counsel and supports the applications made by Shalov Stone Bonner & Rocco LLP, and Harwood Feffer, LLP.

DATED: February 11, 2008

Respectfully submitted,

By:


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Francis Lee Summers, III

CERTIFICATE OF SERVICE

I, Carolyn Davila, hereby certify that on February 11, 2008, I caused the following documents to be served upon the persons/entities listed on the attached service list via electronic mail and the ECF filing rules:

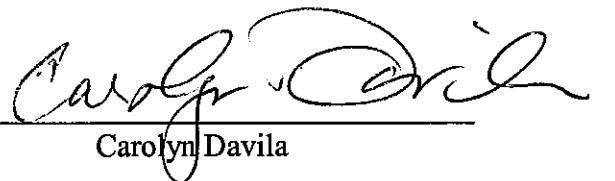
**PLAINTIFF FRANCIS LEE SUMMERS III'S SUPPLEMENTAL MEMORANDUM
OF LAW ON APPOINTMENT OF INTERIM LEAD COUNSEL FOR THE CLASS**

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The image shows a handwritten signature in black ink, which appears to read "Carolyn Davila". Below the signature, the name "Carolyn Davila" is printed in a smaller, standard font.

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